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NAIPO (NORTH AMERICA INTERNATIONAL PATENT OFFICE)
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MAY 18 2004

In re Application of
Shen et al.
Application No. 09/683,099
Filed: November 16, 2001
For: HEARING AID DEVICE WITH
FREQUENCY-SPECIFIC AMPLIFIER SETTINGS

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600
DECISION ON PETITION
TO WITHDRAW HOLDING OF
ABANDONMENT

This is in response to the Petition for Withdrawal of Abandonment, filed March 12, 2004 via facsimile submission, pursuant to MPEP §711.03(c)(II) and 37 C.F.R. § 1.181(a). No fee is required.

This application was held abandoned for failure to timely submit a response to the Notice of Non-Compliant Amendment mailed October 21, 2003 (paper No. 8). A Notice of Abandonment was mailed February 25, 2004 (paper No. 11).

Petitioner alleges that the Notice to File Missing Parts was not received. In support thereof, the Petitioner attests to a search of the file jacket and docket records as well as provides a copy of their docket records along with the subject petition.

The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the Practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received", 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c), section II. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner has satisfied the requirements set forth above. The petition is **GRANTED**.

The Notice of Abandonment is vacated and the holding of abandonment is withdrawn. The application will be forwarded to the TC2600's Technical Support Staff for the preparation and re-mailing of a non-compliant Notice.

Dwayne D. Bost
Special Program Examiner
Technology Center 2600
Communications